

REMARKS

Applicants respectfully request reconsideration of the above-referenced U.S. Patent application. No claims are amended or cancelled herein. Claims 19-24 are currently added. Therefore, claims 5-8, 10-14, and 16-24 are pending.

Claim Rejections - 35 U.S.C. § 103

Claims 5-8, 10-14, and 16-18

Claims 5-8, 10-14, and 16-18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,324,165 B1 issued to Fan et al. (*Fan*). Applicants submit that these claims are not rendered obvious by *Fan* for at least the following reasons.

Claim 5 recites the following:

maintaining a plurality of service level agreements (SLAs) at a first switching point, each SLA having a corresponding minimum data rate;
transmitting data packets corresponding to each SLA at or above the minimum data rate in accordance with the respective SLA;
receiving a message from a second switching point at the first switching point to indicate that traffic between a source and a destination is congested; and
adjusting a data rate at which packets corresponding to an SLA, destined for the destination, are output from the first switching point in response to receiving the message to reduce the congestion.

Thus, Applicants claim receiving a message from a second switching point at a first switching point to indicate that traffic is congested between a source and a destination. Claims 10, 14, and 16 recite similar limitations directed to a congestion message sent between switching points to indicate that traffic is congested.

The Office Action at page 2 cites the DRC feedback of Fig. 2 in *Fan* as disclosing receiving a message from a second switching point at a first switching point to indicate congestion. Applicants traverse this assertion. *Fan* fails to disclose or suggest a message sent between a first and a second switching point. The discussion of Fig. 2 states that "cell queuing in

the *input module* is designed to avoid congestion at an *output port* in the core switch module." Col. 6, lines 36 to 38, emphasis added. To accomplish this, "the DRC feedback is provided from the *output module* and corresponds to the load on the *output ports*." Col. 5, lines 46 to 47, emphasis added. See also col. 5, lines 36-58, and Fig. 1 and col. 7, lines 45 to 67 ("The core switch module provides a feedback path for broadcasting state information *of an output port* OPI to all *input modules* IMi during cell time." Emphasis added.) Thus, the Office Action points merely to a feedback mechanism **internal to the switch**, and fails to point to anything in the reference that discloses or would even suggest a message between a first and a second switching point. Therefore, Applicants respectfully submit that *Fan* fails to disclose or suggest every element of claims 5, 10, 14, and 16, and so fails to render the invention obvious.

Claims 6-8, 11-13, and 17-18 depend from claims 5, 10, and 16, respectively. Because dependent claims necessarily include the limitations of the claims from which they depend, Applicants respectfully submit that these claims are not rendered obvious by the cited reference for at least the reasons set forth above.

New Claims 19-24

New claims 19-24 have not yet been presented for examination. However, Applicants note that new independent claims 19 and 22 include limitations directed to a message between a first and a second switching point to indicate congestion and to cause a switching point to adjust a data rate of packets corresponding to an SLA for which there is congestion. Furthermore, dependent claims necessarily include the limitations of the base claims from which they depend. Thus, Applicants respectfully submit that new claims 19-24 include similar distinguishing features over the prior art as the claims previously presented, and discussed herein. Therefore, claims 19-24 are not rendered obvious by the cited references.

Conclusion

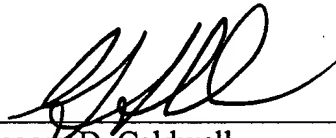
For at least the foregoing reasons, Applicants submit that the rejections have been overcome. Therefore, all pending claims are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: _____

11/6/03



Gregory D. Caldwell
Reg. No. 39,926

12400 Wilshire Blvd., 7th Floor
Los Angeles, CA 90025-1026
Telephone: (503) 684-6200

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